



WILLIAM T FUJIOKA
Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

January 19, 2012

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To: Supervisor Zev Yaroslavsky, Chairman
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From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name.

SACRAMENTO UPDATE

This memorandum provides a brief overview of Governor Brown's 2012 State of the State address and reports on legislation of County interest regarding Redevelopment Agencies.

State of the State

On January 18, 2012, Governor Brown delivered his State of the State address to the California Legislature. The Governor's address emphasized his belief that California is slowly recovering from the economic downturn and that in the year ahead the State must continue to practice fiscal prudence and responsibility. The Governor also voiced his commitment to key infrastructure projects and structural reform.

The Governor stated that he is again proposing difficult spending cuts along with temporary tax increases, which he sees as necessary to balance the State Budget, pay down its debt and build investor confidence in California. As such, the Governor will actively pursue his November 2012 Ballot Initiative to constitutionally protect the 2011 Public Safety Realignment revenues and temporarily increase taxes to help fund education.

In his address, the Governor highlighted several areas upon which he will focus in the coming year which include:

- **Continued implementation of prison realignment** - Continue to work together with local governments to ensure that the 2011 Public Safety Realignment is implemented in the most effective manner possible.

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- **Pension reform** - Continue to pursue his 12-point proposal to reform public pension systems. The Governor urged the Legislature to study this proposal and take up the issue this year.
- **Education reform** - Pursue educational reform to clearly delineate responsibility between levels of government; support greater decision-making and authority at the local level; and reduce student testing requirements.
- **Job stimulation** – Continue to work to identify job creation strategies and assist business investment through the newly created office of business development, GO-BIZ.
- **Investment in renewable energy** - Set a goal of 20,000 megawatts of renewable energy by 2020 and continue to develop programs to encourage the creation of green jobs.
- **Focus on climate change and clean technology** - Continue to address climate change and reduce foreign oil dependency through innovative programs.
- **Launch of a high-speed rail system** - Continue to pursue a plan to build the high-speed rail system to connect Northern and Southern California and seek legislative approval of the plan.
- **Restoration of the Bay Delta** - Finalize details of the Bay Delta Conservation Plan to restore the Delta ecosystem and ensure a reliable source of water for residents, farmlands, and new wildlife habitats.

Redevelopment Legislation of County Interest

SB 654 (Steinberg), as amended on January 11, 2012, would make changes to ABX1 26 (Chapter 5, Statutes of 2011), the redevelopment agency elimination bill, to expand the definition of qualified debt and modify the provisions relating to the distribution of Low Moderate Income Housing (LMIH) funds. The bill contains an urgency clause making it effective immediately, if passed by the Legislature and signed by the Governor. Specifically, SB 654 would:

- Expand the definition of an enforceable obligation to include two additional types of loan agreements between a Redevelopment Agency (RDA) and its host city or county: 1) a loan that was executed within two years of the date of the creation of a project area, if the loan is specific to that project area; and 2) a loan to fund

the RDA's FY 2009-10 State's Supplemental Education Augmentation Fund (SERAF) payment to schools;

- Expand the type of agreements, contracts, or arrangements between a RDA and the host city or county considered valid, to include: 1) written agreements that provided loans or startup funds for the RDA that were entered into within two years of the date of the creation of a project area, if the loan is specific to that project area; and 2) any obligation to fund the RDA's FY 2009-10 SERAF payment to schools;
- Allow a host city or county of a dissolving RDA to retain funds on deposit in its LMIH fund and require the city or county to expend those funds in compliance with the housing provisions of the Community Redevelopment Law;
- Allow the local housing authority or the California Department of Housing and Community Development to retain LMIH funds if the city or county chooses not to assume the housing functions previously performed by an RDA; and
- Require, rather than permit, an entity assuming the housing functions of an RDA to enforce affordability covenants on affordable housing properties.

According to the FY 2009-10 California Redevelopment Agencies Report issued by the California Department of Housing and Community Development, as of June 30, 2010, RDAs in Los Angeles County had unencumbered/undesignated balances in their LMIH Fund of approximately \$233.0 million. Pursuant to the redevelopment dissolution provisions in ABX1 26 of 2011, these funds are to be distributed to taxing entities, including the County General Fund which may be entitled to 30 to 40 percent of undesignated LMIH funds. It is extremely difficult to determine the potential amount of LMIH funding available to the County at this time. However, if SB 654 is enacted, the undesignated funds will be retained by cities that currently operate RDAs and agree to utilize those funds for LMIH purposes in compliance with Community Redevelopment Law, which would result in the loss of potential revenue to the County's General Fund. Under the provisions of SB 654, the Community Development Commission (CDC) would be entitled to retain its share of undesignated LMIH funds, including City of Industry Tax Increment Funds.

While the County has Board-approved policies to advocate on redevelopment legislation which would cause the County to lose revenues, we also have long standing Board policies to support proposals that provide incentives to local governments and developers to increase and protect affordable housing and allow flexibility for counties to

promote a diversity of affordable house types through local policies. We continue to analyze this bill to develop recommendations for consideration by your Board.

According to the CDC, at this time it is difficult to determine the impact the bill will have on the existing City of Industry fund balances that it administers.

The Chief Executive Office (CEO), County Counsel, and the CDC continue to analyze SB 654 to determine potential impact to the County.

SB 654 passed the Senate Appropriations Committee by a vote of 8 to 0 on January 19, 2012. This measure now proceeds to the Senate Floor.

SB 659 (Padilla), as amended on January 13, 2012, would temporarily postpone the dissolution deadline for the elimination of RDAs until April 15, 2012, among other provisions. As amended, the bill also cites intent to codify the California Supreme Court's December 29, 2011 decision in the *California Redevelopment Association v. Matosantos case*.

ABX1 26 (Chapter 5, Statutes of 2011) eliminates RDAs and provides for the transfer of property tax revenues to successor agencies, the retirement of RDA debts and for limited administrative costs. The remaining revenues are to be distributed as property taxes to cities, counties, school and community college districts and special districts.

As previously reported, the California Redevelopment Association, League of California Cities and others filed a lawsuit in the California Supreme Court to challenge the constitutionality of ABX1 26 and ABX1 27 (Chapter 6, Statutes of 2011), which would have created voluntary alternative redevelopment programs, if cities and counties elected to make voluntary payments primarily to fund schools. The recent Court ruling upheld the constitutionality of ABX1 26 and invalidated ABX1 27. The Court's ruling also extended certain deadlines in ABX1 26 by four months. In accordance with the Court's order, RDAs will be dissolved on February 1, 2012.

The following is a summary of the key provisions in SB 659:

Successor Agencies

ABX1 26 established successor agencies which would typically be a city, county, or the city and county that established the RDA. These successor agencies are required to make payments for enforceable obligations, which are defined in ABX1 26, and to principally wind up the affairs of the former RDAs. If a local government entity elects

not to be a successor agency, a designated local authority would be formed with three members appointed by the Governor.

SB 659 would establish certain new requirements regarding the designation of successor agencies. First, a city or county that elected not to be the successor agency, and who filed a copy of an authorized resolution to that effect with the county auditor-controller no later than January 13, 2012, may submit a petition for reconsideration to the Governor to serve as a successor agency by February 15, 2012. The Governor would have sole authority to grant reconsideration. The City of Los Angeles is the only RDA that filed an authorized resolution with the Los Angeles County Auditor-Controller to not become a successor agency. SB 659 also would extend date for a successor agency to report insufficient funds to the county-auditor controller to May 15, 2012.

Extension of RDA Responsibilities

SB 659 would extend from October 1, 2011 to April 15, 2012 the date by which the former RDAs would: 1) transfer assets, properties, contracts, leases, books and records, building and equipment to successor agencies; and 2) determine all cash or cash equivalents and amounts owed to the RDA. The legislation stipulates that new or expanded existing obligations, instituting condemnations proceedings or issuing additional bonds or other indebtedness would be prohibited between December 29, 2011 and April 15, 2012. The measure also would provide payments to RDAs for administration costs incurred prior to April 15, 2012.

County Auditor Responsibilities

SB 659 would extend key dates by which the county auditor must complete the following activities: 1) by April 15, 2012, calculate the amount deposited for each former RDA into the Redevelopment Property Tax Trust Fund; 2) by May 1, 2012, transfer property tax funds of each successor agency into the Redevelopment Obligation Retirement Fund and distribute property tax revenues to cities, county, schools or special districts when a recognized obligation is paid; and 3) by July 1, 2012, conduct an audit of each former RDA and submit a copy the State Controller.

Recognized Obligation Payment Schedule

ABX1 26 requires successor agencies to make payments on legally enforceable obligations of the former RDAs until a Recognized Obligation Payment Schedule (ROPS) is adopted by the successor agency, certified by the county auditor, and approved by the oversight board, the State Controller and the Department of Finance.

The ROPS must include the date, amount and source of revenue for each payment. Until the ROPS becomes operable, successor agencies may only make payments on the last initial enforceable obligations payment schedule adopted by the former RDA. SB 659 would extend this provision from October 1, 2011 to April 15, 2012.

SB 659 also would extend from January 1, 2012 to May 1, 2012, or until the ROPS is deemed valid, provisions which specify that only payments listed in the ROPS may be made by successor agencies from the funds listed in the ROPS. The bill would change from January 1, 2012 to May 1, 2012, the date on which the Recognized Obligation Payment Schedule would supersede the Statement of Indebtedness.

Preliminary Analysis of SB 659

ABX1 26, as enacted June 29, 2011, clearly outlines a process to expeditiously wind down the affairs of redevelopment agencies and contains key provisions that prohibit the creation of new obligations or debts and ensure that enforceable obligations are safeguarded as RDAs are dissolved and debt is retired. These provisions are intended to preserve the revenues and assets of RDAs to ensure that enforceable obligations, as defined in ABX1 26 are paid and to allow local governments to use these revenues to fund core government services. Therefore, any delay, as proposed in SB 659, would only create confusion on the implementation of ABX1 26 and would prevent local governments from receiving revenues, previously allocated to RDAs, which could be used to address critical local government needs. In Los Angeles County, as of January 19, 2012, only one city opted out of becoming a successor agency and it is anticipated that 70 out of 71 cities will be assuming the responsibilities of successor agencies to wind down the affairs of their respective RDAs.

Furthermore, any delays or postponement of the dissolution of RDAs also would have a significant fiscal impact on the State Budget in the current year and FY 2012-13. Since December 2010, Governor Brown and the Legislature have been working to address a deficit, which was projected to be as high as \$26.6 billion, and the enactment of ABX1 26 provides the State an estimated \$1.7 billion in budgetary savings in FY 2011-12 and \$1.0 billion in FY 2012-13. Additionally, that projected savings could, in fact, be significantly higher because of the recent Supreme Court's decision to invalidate ABX1 27. If the dissolution of RDAs is postponed, the State will experience a decrease in projected savings and will be forced to make reductions in other areas to balance its budget, which may impact County programs and services. Over the past couple of years, programs administered by counties, such as health and social services have experienced major budget reductions as a result of State Budget actions. **On January 18, 2012, Governor Brown indicated that he would oppose legislation to delay the scheduled elimination of RDAs.**

County Counsel indicates that the majority of the provisions included in SB 659 do not have a significant impact on the County. A particular concern of the CEO has been the potential for a number of new contracts and agreements recently entered into by RDA's throughout the county, which attempt to obligate additional property tax revenue, to be recognized as an enforceable obligation, due to the various dissolution date delays proposed in SB 659. Last year, various local government entities executed agreements which were viewed as an attempt to establish additional RDA indebtedness prior to the dissolution of RDAs. County Counsel and the CEO, find nothing in SB 659 that changes how an enforceable obligation is defined and recognized in ABX1 26. ABX1 26 stipulates that written agreements of indebtedness obligation, and solely for the purpose of securing or repaying indebtedness obligations, are not recognized as an enforceable obligation if the agreement was entered into after December 31, 2010.

The Auditor-Controller indicates that extension of the deadline from February 1, 2012 to April 15, 2012 would allow redevelopment agencies to continue receiving property tax revenues for an additional two and a half months. During this postponement, RDAs financial activities would continue to occur in the absence of administrative supervision, such as by an oversight board under ABX1 26, and it would be very difficult to ensure that RDA payments would be made for legitimate and allowable enforceable obligations.

The Community Development Commission indicates that SB 659 allows additional time for outstanding and unresolved issues related to its redevelopment dissolution to be clarified. These issues include the status of City of Industry funding and disposition of properties partially acquired with property tax increment.

This office, Auditor-Controller, County Counsel, and CDC will continue to analyze SB 659 to determine the impact on the County.

SB 659 is currently at the Assembly Desk awaiting referral.

We will continue to keep you advised.

WTF:RA
MR:IGEA:sb

c: All Department Heads
Legislative Strategist